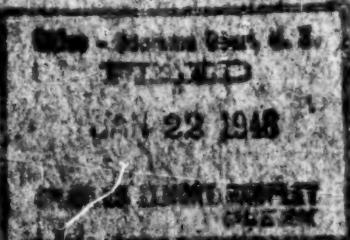




FILE COPY



No. 892

In the Supreme Court of the United States

Oral Argument

Thomas M. Woods, Hoosier _____, Owner of
the Hoosier _____

Opposes Plaintiff

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT



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In the Supreme Court of the United States

OCTOBER TERM, 1947

No. 392

TIGHE E. WOODS, HOUSING EXPEDITER, OFFICE OF
THE HOUSING EXPEDITER, PETITIONER

v.

CHARLES STONE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT
COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE PETITIONER

OPINIONS BELOW

The opinion of the district court (R. 41-44) is not reported. The opinion of the circuit court of appeals (R. 49-52) is reported in 163 F. 2d 393.

JURISDICTION

The judgment of the circuit court of appeals was entered on July 28, 1947 (R. 48-49). The petition for a writ of certiorari was filed on October 8, 1947, and was granted on December 8, 1947 (R. 52). The jurisdiction of this Court rests on

Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Does the statute of limitations provided by Section 205 (e) of the Emergency Price Control Act, as amended, run from the time when a tenant pays rent to a landlord who has neglected to file a timely registration statement of his housing accommodations, or from the time that the landlord fails or refuses to obey a retroactive rent reduction order directing him to refund over-charges to the tenant?

STATUTE AND REGULATION INVOLVED

The statute and regulation involved are the Emergency Price Control Act of 1942 (56 Stat. 23, as amended by the Stabilization Extension Act of 1944, 58 Stat. 632, 640, 50 U. S. C. App. Supp. V, 901, *et seq.*) and the Rent Regulation for Housing, as amended (8 F. R. 14663, 10 F. R. 3436). The pertinent provisions are set forth in the Appendix, *infra*, pp. 19-26.

STATEMENT

The respondent, Charles Stone, was the owner of a house situated at 148 West Washington Street, Mooresville, Indiana (R. 11, 44). On or about August 1, 1944, he rented these premises to C. F. A. Locke for \$75.00 per month (R. 5,

45).¹ This was the first rental of the premises (R. 45). Section 7 of the Rent Regulation for Housing (Appendix, *infra*, pp. 24-25) required that a registration statement be filed with the Administrator within thirty days of such first rental; and Section 4 (e) (Appendix, *infra*, pp. 22-23) provided that this first rental should constitute the prescribed maximum rent until reduced by the Administrator. The purpose of the registration statement is to put the Administrator promptly on notice of the rental of premises not previously rented and registered, and to give him an opportunity to review the rental to determine whether it is excessive. Section 4 (e) likewise provided that if the landlord fails to file a registration statement within such thirty day period, any rent received from the time of the first renting should be subject to refund to the tenant of any amount in excess of the maximum rent which later might be established by an order issued under Section 5 (c) (1) (Appendix, *infra*, pp. 23-24), and that such amount should be refunded to the tenant within thirty days after the date of issuance of such an order. Section 5 (c) (1) authorized the decrease of maximum rents thus established where they were higher than

¹ The respondent claimed to believe that the rental of the property was, in fact, a trade with the tenant (R. 40), although, as the court below pointed out (R. 49), the tenant did not own any property.

those generally prevailing for comparable housing accommodations on the maximum rent date:

Instead of registering the premises within thirty days after August 1, 1944, as was required by the Regulation upon a first renting, the respondent never filed a registration statement (R. 45). In April 1945, the respondent sold the premises to one Henley who, in June 1945, filed a registration statement (R. 8, f. 14).

On June 28, 1945, the Area Rent Director, acting pursuant to authority vested in him by Section 5 (c) of the Regulation (Appendix, *infra*, p. 24), reduced the rent from \$75.00 to \$45.00 per month, effective from the first rental, and ordered the respondent to refund the excessive amounts collected (\$30.00 for each of the nine months August 1944 through April 1945 (R. 2)) within thirty days thereafter (R. 15-16, 45). The respondent failed to obey this order (R. 45). The tenant having failed to institute an action under Section 205 (e) of the Act, this suit was instituted by the Administrator on February 1, 1946, for \$810.00, three times the \$270.00 excessive rent which the respondent had failed to refund (R. 1-2). After a trial, the court held that the one-year statute of limitations in Section 205 (e) of the Act barred that portion of the Administrator's claim which was based upon failure to refund excessive amounts collected more than a year before the institution of the action, and awarded damages of \$90.00, the single

amount of the excess rent collected for the months of February, March, and April, 1945, which were within the year prior to the filing of the complaint (R. 43-44). The circuit court of appeals affirmed the judgment (R. 49-52), likewise resting its decision on the ground that the statute of limitations ran from the various times when the landlord collected the rent from the tenant (R. 52).

SPECIFICATION OF ERROR TO BE URGED

The circuit court of appeals erred in holding that the statute of limitations provided by Section 205 (e) of the Emergency Price Control Act runs from the various times on which the landlord collected rent from the tenant, rather than from the date on which the landlord violated the retroactive rent reduction order by his failure to refund the excess rent.

SUMMARY OF ARGUMENT

The plain words of the Act compel a rejection of the conclusion reached by the court below that the statute of limitations runs from the time that rent is paid rather than from the time the landlord refuses to obey the order to refund. Section 205 (e) of the Act provides that suit may be brought "within one year from the date of the occurrence of the violation * * * on account of the overcharge." [Italics supplied.] There was no violation prior to July 29, 1945, because

until the rent reduction order of June 28, 1945, the legal maximum was no lower than the rent actually collected, and, under that order, the respondent had 30 days in which to make the refund of the excess he had collected over the newly established maximum. Thus, if the respondent had refunded the excess payments to the tenant, there would have existed no cause of action. The statute of limitations could not have commenced to run before the cause of action accrued.

The only violation which had occurred before July 29, 1945 was the failure to register, and that violation could not give rise to a suit for treble damages, such as is here concerned, nor was it in any sense an overcharge.

Even if it could be said that the overcharges occurred on each date on which the rent was paid, the Act carefully distinguishes between the terms "overcharge" and "violation", and makes the statute of limitations commence to run upon the occurrence of the latter and not the former.

The result reached by the court below would allow the wrongdoer to benefit from his own wrong, because, if he delayed long enough in filing a registration statement or failed to file one at all, his tenant could not recover any rent collected more than a year before the discovery of the failure to register, no matter how excessive that rent was. The decision below grants a special advantage to wilfull violators since, if it is allowed to stand, such violators would be im-

munized from treble damage suits based on excessive rent collections made more than a year before suit was brought.

ARGUMENT

THE PETITIONER IS ENTITLED TO JUDGMENT FOR THE ENTIRE AMOUNT OF THE EXCESSIVE RENT COLLECTED

A. The cause of action accrued only after the respondent had failed to comply with the Rent Director's order.—When the respondent first rented his home in Mooresville, Indiana, on August 1, 1944, and demanded and received \$75 per month⁴¹ as rental (R. 45), that rental of \$75 per month was the "maximum rent" under Section 4 (e) of the Rent Regulation, until changed by order of the Administrator entered pursuant to Section 5 (c) (1) of the Rent Regulation. See Appendix, *infra*, pp. 22-25. Thus, until the maximum rent was "changed from \$75.00 per month to \$45.00 per month" by order of the Rent Director issued on June 28, 1945 (R. 15, 45), there was neither an overcharge nor a violation of "a regulation, order, or price schedule prescribing a maximum price or maximum prices". Section 205 (e), Emergency Price Control Act, Appendix, *infra*, p. 20.

Indeed, since the Rent Director's order of June 28, 1945 afforded the respondent a period of 30 days within which to refund rent received

after the effective date of the order (the date of first rental) in excess of \$45 (R. 15-16, 45) there was no violation of that order until July 29, 1945, 31 days after the date of the order.

These facts make it perfectly clear that a cause of action under Section 205 (e) of the Act accrued to neither the respondent's tenant nor the Administrator before July 29, 1945. While the respondent's failure to file a timely registration statement for the premises in question violated Section 7 of the Rent Regulation for Housing, such violation did not result in an overcharge to the tenant and, consequently, did not give rise to a violation of an order establishing a maximum rent for which Section 205 (e) of the Act gives a cause of action.² Prior to the Rent Director's order establishing retroactively a reduced maximum rent, neither the tenant nor the Administrator could bring an action for overcharges because such overcharges had not occurred.

Thus, the court below, by ruling that the one year statute of limitations prescribed by Section

² The court below relied on *Thierry v. Gilbert*, 147 F. 2d 603 (C. C. A. 1), to support its conclusion that the violations occurred when the rent was paid. But that case involved neither a refund order nor any question of the statute of limitations. It held only that where a landlord charged more than the already established maximum rent every month, each collection of more than the maximum rent constituted a separate violation giving rise to individual causes of action upon which the tenant could collect the minimum recovery of \$50. The decision in the *Thierry* case in no way affects the issue here involved.

205 (e), bars the Administrator from recovering excessive rents collected more than one year before the date suit is brought (R. 52), has, in effect, held that the statute of limitations begins to run before the cause of action comes into existence. This holding disregards the rule that a statute of limitations commences to run only when a cause of action has accrued so that suit may be instituted upon it. In *Rawlings v. Ray*, 312 U. S. 96, the Comptroller of the Currency assessed the shareholders of a bankrupt bank 50% of the par value of the shares. The assessment was made on November 6, 1935, and was required to be paid on or before December 13, 1935. The defendant, a shareholder, having failed to pay, suit was brought on December 7, 1938. A three year statute of limitations being applicable, the case turned on whether the statute began to run on the date of assessment or the date the assessment was payable. This Court held (312 U. S. at 98) :

While the assessment was made on November 6, 1935, it was expressly made payable on or before December 13, 1935. Respondent was allowed until that date to pay and prior thereto suit could not be maintained against him. Hence the statute of limitations did not begin to run until December 13, 1935, and the suit was in time.

The doctrine is further illustrated by *Fisher v. Whiton*, 317 U. S. 217, which also involved an

assessment against the shareholder of a bankrupt bank. There, the Comptroller of the Currency levied the assessment on April 19, 1934, payable May 26, 1934. By four successive orders, the original maturity date of May 26, 1934, was extended to April 15, 1935. Under the applicable statute of limitations, the suit on the assessment would have been barred if the limitations period had begun to run on the date the assessment was first payable. This Court, carrying the doctrine of the *Rawlings* case one step further, held that "since the Comptroller has power to extend the time for payment, respondent was not required to pay until April 15, 1935 and prior to that time suit could not be instituted against her" (317 U. S. at 220). Therefore, the cause of action accrued on that date, and the statute of limitations commenced to run then. To the same effect see *Cope v. Anderson*, 331 U. S. 461.

In reaching a conclusion directly contrary to that adopted by the court below, the Circuit Court of Appeals for the Fourth Circuit said (*Creedon v. Babcock*, 163 F. 2d 480, 483):

Failure to register gave no right to sue
and therefore does not govern the limita-

³ A situation analogous to that presented here is found in treble damage suits brought more than a year after an over-ceiling sale but less than a year after delivery. In such a case, although the recovery is predicated on an overcharge, the limitation period runs from the violative delivery. *Schreffler v. Bowles*, 153 F. 2d 1 (C. C. A. 10), certiorari denied, 328 U. S. 870.

tion period. Compare *Rawlings v. Ray*, 312 U. S. 96, 61 S. Ct. 473, 85 L. Ed. 605. Until the last day on which refund could be made in compliance with the O. P. A. order, that is, 30 days after the order was issued, or January 30, 1945, there could be no violation. This must be so since a refund payment prior to that date would have been in full compliance with the order and hence would have given no foundation for suit. It follows necessarily from the plain and imperative words of the Act—"within one year from the date of the occurrence of the violation"—that the limitation period started the day following January 30, 1945, which was the date of the occurrence of the violation.

With the exception of that here involved, all the district court decisions that have come to our attention have held, contrary to the court below, that the statute of limitations commences to run 30 days after the issuance of the refund order. *Porter v. Butts*, 68 F. Supp. 516 (S. D. Ohio); *Haber v. Garthly*, 67 F. Supp. 774 (E. D. Pa.); *Porter v. Sandberg*, 69 F. Supp. 29 (W. D. Ark.); *Parham v. Clark*, 68 F. Supp. 17 (E. D. Mich.); *Porter v. Kaibel*, 5 OPA Op. & Dec. 5117 (D. Minn.); *Bowles v. Buckner* (W. D. Wash.), decided Feb. 12, 1946, No. 1281; *Bowles v. Gotterdam* (S. D. Ohio), decided May 5, 1947, No. 1465; *Fleming v. O'Sullivan* (W. D. Calif.), decided March 13, 1947, No. 26257R.

The view of the court below was that (R. 52) :

There is no merit in the contention that the violation upon which this cause of action is based is the failure or refusal to make the refund. Such a failure or refusal is a violation of § 4 (e) of the Rent Regulation for Housing, and if a refund order is issued by the Administrator, it is a violation of the order; but such failure or refusal is not the violation specified in § 205 (e), which is the violation of the "maximum price regulation" or order.

A mere reading of the order here involved demonstrates the error in the conclusion of the court below that there has been no violation of a "regulation, order, or price schedule prescribing a maximum price" within the meaning of Section 205 (e). That order reads in relevant part, as follows (R. 15) :

on the basis of the rent which the Rent Director finds was generally prevailing in this Defense-Rental Area for comparable housing accommodations on the Maximum Rent Date, it is ordered that the Maximum Rent for the above-described accommodations be, and it hereby is, changed from \$75.00 per month to \$45.00 per month.

Since this order, on its face, is one "prescribing a maximum price", and since its violation is a violation of Section 2 (a) of the Rent Regulation, Section 5 (c) (1) of which authorizes orders of the sort issued here (*Appendix, infra*, pp. 22, 24), violation of either or both is, of course, "the

violation specified in § 205 (e)" (R. 52). The order of June 28, 1945, does not become any less an order "prescribing a maximum price" because, at its foot, it directs a refund of rent collected in excess of the maximum fixed (R. 15-16). That being so, it clearly follows that the cause of action for the recovery of excessive rents collected from the effective date of the order (the first rental date) accrued only when there was a violation of the order, and that the statute of limitations only then began to run. For Section 205 (e) provides that suit may be brought "within one year from the date of the occurrence of the violation."

B. The failure to comply with the Rent Director's order was the "violation" which started the running of the statute of limitations.—Even if it could be said that the overcharges occurred on each date on which the rent was paid, it could not be said that the statute of limitations commences to run from the date of the overcharge rather than from the date of the violation, the latter being a time which, as we have shown (*supra*, pp. 7-8), could not have antedated the Rent Director's order. The contrary construction finds no justification in the words of the Act, nor is it warranted by any other consideration. It cannot be said that Congress used the word "violation" loosely or by mistake and intended instead to say "overcharge". The limitation sentence referred to above declares in part "If any person selling

a commodity violates a regulation, order, or price schedule prescribing a maximum price * * * the person who buys such commodity * * * may, within one year from the date of the occurrence of the *violation* * * * bring an action against the seller on account of the *overcharge* * * *. Reference to this limitation provision shows that Congress used the two italicized words in the same sentence for different purposes, keeping clearly in mind their difference in meaning. The same distinction is carefully drawn in several other portions of the section. In each instance, "violation" is used as indicating the point from which the statute begins to run, and "overcharge" as indicating the basis for, and partial measure of, damages in the action.

To adopt the reasoning of the court below, however, would require the conclusion that Congress intended the word "violation" to mean "overcharge" despite the careful differentiation between them. We may not assume that in using two different words in the same section Congress intended to convey the same meaning for both words.

Again, the point is aptly stated by the court in the *Babcock* case (163 F. 2d at 483):

It becomes apparent, upon a close reading of the Act, that the word *violation* is used in a sense that is quite separate and distinct from the word *overcharge*. Par-

ticularly significant is the first sentence of Section 205 (e) quoted above: "If any person selling a commodity violates a * * * order * * * prescribing a maximum price * * * the person who buys such commodity * * * may, within one year from the date of the occurrence of the *violation* * * * bring an action against the seller on account of the *overcharge* * * *." *Violation* is used to indicate the point from which the statute begins to run, whereas *overcharge* indicates the basis of, and the yardstick for, damages.

C. *The decision below affords a benefit to those who compound their violation by failing to file a registration statement not available to those who comply with registration statement requirements.*—The conclusion reached by the court below is at odds with the established principle that a wrongdoer may not benefit from his own wrong (see, e. g. *Bigelow v. RKO Radio Pictures, Inc.*, 327 U. S. 251; *R. H. Stearns Co. v. United States*, 291 U. S. 54). The retroactive rent reduction order, which must be accepted as valid in these proceedings,⁴ is issued only where a landlord has

⁴ Section 204 (d), Emergency Price Control Act, 56 Stat. 31, 50 U. S. C. App. Supp. V, 924 (d); *Bowles v. Willingham*, 321 U. S. 503; *Porter v. McRae*, 155 F. 2d 213 (C. C. A. 10); *Bowles v. Lake Lucerne Plaza*, 148 F. 2d 967 (C. C. A. 5), certiorari denied, 326 U. S. 726; *Fleming v. Dashiell*, 161 F. 2d 612 (C. C. A. 9). In the brief in opposition to the petition for certiorari, respondent conceded that "the validity of

failed to file a timely registration statement.⁵ By his delay, the fact of renting is concealed from the Administrator and investigation of the premises for review of the maximum rental is postponed. To prevent the landlord from benefiting from his own complete disregard of the Act and the Rent Regulation, the retroactive order requires him to refund to the tenant all over-charges collected during the period of noncompliance. On the theory upheld by the Sixth Circuit, however, the longer the delay or “* * * the more grievous the wrong done, the less likely

the amount of the refund or his right to order a refund is not to be questioned in the District or Circuit Court.” (p. 4.) But respondent apparently contends that that rule does not apply to an order or regulation which on its face is illegal. The contrary doctrine that the validity of even an order which is on its face invalid may only be assailed in the Emergency Court of Appeals is well established. *United States v. George F. Fish, Inc.*, 154 F. 2d 798, 800 (C. C. A. 2) certiorari denied, 328 U. S. 869; *United States v. Tantleff*, 155 F. 2d 27 (C. C. A. 2), certiorari denied *sub nom. Lieberman v. United States*, 328 U. S. 869. Moreover, the Emergency Court of Appeals has several times sustained the validity of retroactive rent orders. *Easley v. Fleming*, 159 F. 2d 422 (E. C. A.); *Womack v. Boyles*, 146 F. 2d 497 (E. C. A.); *Ambassador Apartments v. Porter*, 157 F. 2d 774 (E. C. A.).

⁵ See Section 4 (e) of the Rent Regulation for Housing; cf. *Porter v. Senderowitz*, 158 F. 2d 435 (C. C. A. 3), certiorari denied, 330 U. S. 848; *Porter v. Kramer*, 156 F. 2d 687 (C. C. A. 8); *Martini v. Porter*, 157 F. 2d 35 (C. C. A. 9), certiorari denied, 330 U. S. 848; *Porter v. Eastern Sugar Associates*, 159 F. 2d 299 (C. C. A. 4).

hood there would be of recovery." *Bigelow v. RKO Radio Pictures, Inc.*, 327 U. S. at p. 265.*

If the judgment below is allowed to stand, a tenant will be denied all recovery of excessive rents collected more than one year before suit is filed even though suit could not be filed sooner because the failure of the landlord to register had prevented determination of an appropriate maximum rental. While the decision below, applying as it does only to Section 205 (e), would not take from the Expediter his right to sue for restitution of all excessive rent under Section 205 (a) (Appendix, *infra*, p. 19; *Porter v. Warner Co.*, 328 U. S. 395), it would frustrate, *pro tanto*, his right to invoke the treble damage provisions of Section 205 (e), applicable to wilfull or negligent violators, with respect to rents collected more than one year before the action for such damages is brought. Thus the wilfull violators are given the greatest advantage by the decision below.

* It is wholly irrelevant that all the payments of rent occurred less than a year prior to July 29, 1945, so that, had suit been filed immediately, the statute of limitations could not have barred any part of the claim. The Administrator was not compelled to bring suit at once but was given a year within which to do so. Moreover, the ruling below would be equally applicable where the refund order was issued more than a year after certain of the payments of rent.

¹ Or that of the tenant if he brings suit within thirty days.

CONCLUSION

The decision of the court below should be reversed and the cause remanded with directions to enter a judgment against the respondent for the entire amount of the refund required by the order of June 28, 1945.

Respectfully submitted:

PHILIP B. PERLMAN,
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JANUARY 1948.

APPENDIX

1. Pertinent provisions of Emergency Price Control Act of 1942 (56 Stat. 23), as amended by Stabilization Extension Act of 1944 (58 Stat. 632, 50 U. S. C. App., Supp. V, Sec. 901, *et seq.*) are:

SEC. 4. (a) It shall be unlawful, regardless of any contract, agreement, lease, or other obligation heretofore or hereafter entered into, for any person to sell or deliver any commodity, or in the course of trade or business to buy or receive any commodity, or to demand or receive any rent for any defense-area housing accommodations, or otherwise to do or omit to do any act, in violation of any regulation or order under section 2, or of any price schedule effective in accordance with the provisions of section 206, or of any regulation, order, or requirement under section 202 (b) or section 205 (f), or to offer, solicit, attempt, or agree to do any of the foregoing.

SEC. 205. (a) Whenever in the judgment of the Administrator any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of section 4 of this Act, he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the Administrator that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order shall be granted without bond.

SEC. 205. (e) If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, the person who buys such commodity for use or consumption other than in the course of trade or business may, *within one year from the date of the occurrence of the violation, except as hereinafter provided, bring an action against the seller on account of the overcharge.* In such action, the seller shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is the greater: (1) Such amount not more than three times the amount of the overcharge, or the overcharges, upon which the action is based as the court in its discretion may determine, or (2) an amount not less than \$25 nor more than \$50, as the court in its discretion may determine: Provided, however, That such amount shall be the amount of the overcharge or overcharges or \$25, whichever is greater, if the defendant proves that the violation of the regulation, order, or price schedule in question was neither wilful nor the result of failure to take practicable precautions against the occurrence of the violation.¹ For the purposes of this section the payment or receipt of rent for defense-area housing accommodations shall be deemed the buying or selling of a commodity, as the case may be; and the word "overcharge" shall mean the amount

¹ As amended by Sec. 108 (b) of Stabilization Extension Act of 1944. Formerly read, in place of italicized language: "bring an action either for \$50 or for treble the amount by which the consideration exceeded the applicable maximum price, whichever is the greater, plus reasonable attorney's fees and costs as determined by the court."

by which the consideration exceeds the applicable maximum price.² If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, and the buyer either fails to institute an action under this subsection within thirty days from the date of the occurrence of the violation or is not entitled for any reason to bring the action, the Administrator may institute such action on behalf of the United States within such one-year period. If such action is instituted by the Administrator, the buyer shall thereafter be barred from bringing an action for the same violation or violations. Any action under this subsection by either the buyer or the Administrator, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages under this subsection shall be a bar to the recovery under this subsection of any damages in any other action against the same seller on account of sales made to the same purchaser prior to the institution of the action in which such judgment was rendered.³

2. Pertinent Provisions of the Rent Regulation for Housing, as amended (8 F. R. 14663, 10 F. R. 3436) :

² Added by Sec. 108 (b) of Stabilization Extension Act of 1944.

³ As amended by Sec. 108 (b) of Stabilization Extension Act of 1944. Formerly read, in place of italicized language: " * * * is not entitled to bring suit or action under this subsection, the Administrator may bring such action under this subsection on behalf of the United States. Any suit or action under this subsection may be brought in any court of competent jurisdiction, and shall be instituted within one year after delivery is completed or rent is paid. * * *

SEC. 2. *Prohibition against higher than maximum rents*—(a) *General prohibition*.—Regardless of any contract, agreement, lease, or other obligation heretofore or hereafter entered into, no person shall demand or receive any rent for or in connection with the use or occupancy on and after the effective date of regulation of any housing accommodations within the Defense-Rental Area higher than the maximum rents provided by this regulation; and no person shall offer, solicit, attempt, or agree to do any of the foregoing. Lower rents than those provided by this regulation may be demanded or received.

* * * * *

SEC. 4. *Maximum rents*.—Maximum rents (unless and until changed by the Administrator as provided in section 5) shall be:

(a) *Rented on maximum rent date*.—For housing accommodations rented on the maximum rent date, the rent for such accommodations on that date.

* * * * *

(e) *First rent after effective date*.—For (1) newly constructed housing accommodations without priority rating first rented on or after the effective date of regulation, or (2) housing accommodations changed on or after such effective date so as to result in an increase or decrease of the number of dwelling units in such housing accommodations, or (3) housing accommodations not rented at any time during the two months ending on the maximum rent date nor between that date and the effective date, the first rent for such accommodations after the change or effective

date, as the case may be, but in no event more than the maximum rent provided for such accommodations by any order of the Administrator issued prior to September 22, 1942. Within 30 days after so renting the landlord shall register the accommodations as provided in section 7. The Administrator may order a decrease in the maximum rent as provided in section 5 (e).

If the landlord fails to file a proper registration statement within the time specified (except where a registration statement was filed prior to October 1, 1943) the rent received for any rental period commencing on or after the date of the first renting or October 1, 1943, whichever is the later, shall be received subject to refund to the tenant of any amount in excess of the maximum rent which may later be fixed by an order under section 5 (e) (1). Such amount shall be refunded to the tenant within 30 days after the date of issuance of the order. If the Administrator finds that the landlord was not at fault in failing to file a proper registration statement within the time specified, the order under section 5 (e) (1) may relieve the landlord of the duty to refund. Where a proper registration statement was filed before March 1, 1945, the landlord shall have the duty to refund only if the order under section 5 (e) (1) is issued in a proceeding commenced by the Administrator before September 1, 1945. Where a proper registration statement is filed on or after March 1, 1945, the landlord shall have the duty to refund only if the order under section 5 (e) (1) is issued in a proceeding commenced by the Administrator within three months after the date of filing of such registration statement. The

foregoing provisions and any refund thereunder do not affect any civil or criminal liability provided by the Act for failure to file the registration statement required by section 7.

* * * * *

SEC. 5. *Adjustments and other determinations.*—In the circumstances enumerated in this section, the Administrator may issue an order changing the maximum rents otherwise allowable or the minimum services required.

* * * * *

(c) *Grounds for decrease of maximum rent.*—The Administrator at any time, on his own initiative or on application of the tenant, may order a decrease of the maximum rent otherwise allowable only on the grounds that:

(1) *Rent higher than rents generally prevailing.*—The maximum rent for housing accommodations under paragraph (c), (d), (e), (g), or (j) of section 4 is higher than the rent generally prevailing in the Defense-Rental Area for comparable housing accommodations on the maximum rent date.

* * * * *

SEC. 7. *Registration*—(a) *Registration statement.*—On or before the date specified in Schedule A of this regulation, or within 30 days after the property is first rented, whichever date is the later, every landlord of housing accommodations rented or offered for rent shall file in triplicate a written statement on the form provided therefor to be known as a registration statement. The statement shall identify each dwelling unit and specify the maximum rent provided by this regu-

lation for such dwelling unit and shall contain such other information as the Administrator shall require. The original shall remain on file with the Administrator and he shall cause one copy to be delivered to the tenant and one copy, stamped to indicate that it is a correct copy of the original, to be returned to the landlord. In any subsequent change of tenancy the landlord shall exhibit to the new tenant his stamped copy of the registration statement, and shall obtain the tenant's signature and the date thereof, on the back of such statement. Within five days after renting to a new tenant, the landlord shall file a notice on the form provided therefor, on which he shall obtain the tenant's signature, stating that there has been a change in tenancy, that the stamped copy of the registration statement has been exhibited to the new tenant and that the rent for such accommodations is in conformity therewith.

When the maximum rent is changed by order of the Administrator, the landlord shall deliver his stamped copy of the registration statement to the area rent office for appropriate action reflecting such change.

SEC. 9. *Evasion*—(a) *General*.—The maximum rents and other requirements provided in this regulation shall not be evaded, either directly or indirectly, in connection with the renting or leasing or the transfer of a lease of housing accommodations, by way of absolute or conditional sale,

* As amended by Am. 44, 10 F. R. 330, effective January 10, 1945, which added paragraph (b) and inserted "or by tying agreement" in paragraph (a).

sale with purchase money or other form of mortgage, or sale with option to repurchase, or by modification of the practices relating to payment of commissions or other charges or by modification of the services furnished with housing accommodations, or by tying agreement, or otherwise.

(b) *Purchase of property as condition of renting.*—Specifically, but without limitation on the foregoing, no person shall require a tenant or prospective tenant to purchase or agree to purchase furniture or any other property as a condition of renting housing accommodations.

